

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

ANNE FLORENCE ANDRE-PEARSON,

Plaintiff,

vs.

Hon. Paul Maloney
Case No. 1:12-cv-01223

GRAND VALLEY HEALTH PLAN, INC.
a Michigan Corporation

Defendant.

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MOTION TO DISMISS

Defendant Grand Valley Health Plan (“GVHP”), through its undersigned counsel, moves this Court to dismiss Plaintiff Anne Florence Andre-Pearson’s complaint because it is completely preempted by the Employee Retirement Income Security Act (“ERISA”). In support of this motion, as more fully stated in its supporting brief, GVHP states:

1. On November 5, 2012, GVHP timely removed Plaintiff’s Complaint to this Court on the basis of federal question jurisdiction because Plaintiff’s claims derive from the processing of her claim for benefits pursuant to an ERISA-covered plan. 28 U.S.C. §1331; 28 U.S.C. §1132(e) (ERISA); *Aetna Health v. Davila*, 542 U.S. 200, 207-08, 214 (2004).

2. Each of Plaintiff’s claims are completely preempted by ERISA and should be dismissed. 29 U.S.C. §1144(a).

3. On November 9, 2012, GVHP requested Plaintiff's concurrence in the filing of this Motion. Plaintiff did not concur, necessitating the filing of this Motion.

For the foregoing reasons and those set forth in its Brief, GVHP requests that the Court dismiss Plaintiff's complaint in its entirety because it is completely preempted by ERISA.

Respectfully submitted

Miller, Canfield, Paddock and Stone, P.L.C.

By /s/ Brian M. Schwartz
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Dated: November 12, 2012

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2012, I electronically filed the foregoing document with the Clerk of the Court using the ECF system which will send notification to:

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